

§ 53-244.115. Investigation and examination authority.

(a) For purposes of initial licensing or registration, renewal, suspension, conditioning, revocation, or termination, or general or specific inquiry, investigation, or examination to determine compliance with this Article, the Commissioner may access, receive, and use any books, accounts, records, files, documents, information, or evidence, including all of the following:

- (1) Criminal, civil, and administrative history information, including nonconviction data.
- (2) Personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act.
- (3) Any other documents, information, or evidence the Commissioner deems relevant to the inquiry, investigation, or examination regardless of the location, possession, control, or custody of the documents, information, or evidence.

(b) For purposes of investigating violations or complaints arising under this Article, or for the purposes of examination, the Commissioner may review, investigate, or examine any licensee, registrant, individual, or person subject to this Article as often as necessary in order to carry out the purposes of this Article. The Commissioner may interview the officer, principals, person with control, qualified individual, mortgage loan originators, transitional mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, registrant, individual, or person concerning their business. The Commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any examination or investigation and may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the Commissioner deems relevant to the inquiry. The assessment set forth in G.S. 53-244.100A is for the purpose of meeting the cost of regulation under this Article. Any investigation or examination that, in the opinion of the Commissioner of Banks, requires extraordinary review, investigation, or special examination shall be subject to the actual costs of additional expenses and the hourly rate for the staff's time, to be determined annually by the Banking Commission.

(c) Each licensee, registrant, individual, or person subject to this Article shall make available to the Commissioner upon request the books and records relating to the operations of the licensee, registrant, individual, or person. No licensee, registrant, individual, or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information. Each licensee, registrant, individual, or person subject to this Article shall also make available for interview by the Commissioner the officers, principals, persons with control, qualified individuals, mortgage loan originators, transitional mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, registrant, individual, or person concerning their business.

(d) Each licensee, registrant, individual, or person subject to this Article shall make or compile such reports or prepare other information as may be directed or requested by the Commissioner in order to carry out the purposes of this section, including any of the following:

- (1) Accounting compilations.
- (2) Information lists and data concerning loan transactions in a format prescribed by the Commissioner.
- (3) Periodic reports, including any of the following:
 - a. Annual Report Questionnaire.
 - b. Servicer Activity Report.

- c. Servicer Schedule of the Ranges of Costs and Fees.
 - d. Lender/Servicer Audited Statements of Financial Condition.
 - e. Broker Certified Statements of Financial Condition.
 - f. Quarterly Loan Origination Reports.
- (4) Any other information deemed necessary to carry out the purposes of this section.

(e) In making any examination or investigation authorized by this Article, the Commissioner may control access to any documents and records of the licensee, registrant, or person under examination or investigation. The Commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the Commissioner. Unless the Commissioner has reasonable grounds to believe the documents or records of the licensee or registrant have been or are at risk of being altered or destroyed for purposes of concealing a violation of this Article, the licensee, registrant, or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business.

(f) In order to carry out the purposes of this section, the Commissioner may do any of the following:

- (1) Retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations.
- (2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, documents, records, information, or evidence obtained under this section.
- (3) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this Article.
- (4) Accept and rely on examination or investigation reports made by other government officials, within or without this State.
- (5) Accept audit reports made by an independent certified public accountant for the licensee, registrant, individual, or person in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the Commissioner.

(g) In addition to the authority granted by G.S. 53-244.113 and G.S. 53-244.115, the Commissioner is authorized to take action, including summary suspension of the license or registration, if the licensee or registrant fails, within 20 days or a lesser time if specifically requested for good cause, to do any of the following:

- (1) Respond to inquiries from the Commissioner or the Commissioner's designee regarding any complaints filed against the licensee or registrant that allege or appear to involve violation of this Article or any law or rule affecting the mortgage lending business.
- (2) Respond to and cooperate fully with notices from the Commissioner or the Commissioner's designee relating to the scheduling and conducting of an examination or investigation under this Article.

- (3) Consent to a criminal history record check. The refusal shall constitute grounds for the Commissioner to deny licensure to the applicant as well as to any entity that meets any of the following criteria:
 - a. By whom or by which the applicant is employed.
 - b. Over which the applicant has control.
 - c. As to which the applicant is the current or proposed qualifying individual or a current or proposed branch manager.

(h) The authority of this section shall remain in effect, whether a licensee, registrant, individual, or person subject to this Article acts or claims to act under any licensing or registration law of the State, or claims to act without such authority. (2009-374, s. 2; 2012-37, s. 3; 2013-327, s. 13; 2015-293, s. 1.)